

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MICHAEL A. CALVIN,

Petitioner,

v.

Case No. 2:04-cv-65
HON. R. ALLAN EDGAR

TIM LUOMA,

Respondent.

_____ /

ORDER

Petitioner Michael A. Calvin filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent moves to dismiss the habeas petition on the ground that petitioner Calvin has not properly exhausted his state court remedies as required by 28 U.S.C. § 2254(b)(1)(A). [Court Doc. No. 11].

This case was referred to United States Magistrate Judge Timothy P. Greeley for his report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Greeley has submitted his report and recommendation. [Court Doc. No. 38]. The parties have not timely filed any objections.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the Magistrate Judge's report and recommendation under 28 U.S.C. § 636(b). Accordingly, the respondent's motion [Court Doc. No. 11] to dismiss the habeas petition is **GRANTED**. The petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254 is **DISMISSED WITHOUT PREJUDICE**.

If petitioner Calvin should take action to appeal this judgment, any application by him for a certificate of appealability is **DENIED** pursuant to 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b). Petitioner Calvin has not made a substantial showing of a denial of a constitutional right.

The Clerk of Court shall close the record in this case. This is a **FINAL JUDGMENT**.

SO ORDERED.

ENTER this *28th day of September, 2005*.

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE